

FILED

OCT 01 2010

PATRICK E. DUFFY, CLERK

By DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

CHARLES L. CADDELL,)	CV 10-11-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
HELENA ELDER HOUSING, INC.,)	
a Montana corporation, et al.)	
)	
Defendants.)	
_____)	

This action arises from a Complaint filed on February 12, 2010 alleging violations of civil rights and resulting damages. On July 21, 2010, Magistrate Judge Keith Strong ordered the Plaintiff to file with the Court, on or before August 20, 2010, proof of service of summons and complaint on certain Defendants or show cause why the claims against those Defendants should not be dismissed.

The ordered proof of service or show cause was for Defendants as follows:

Helena Elder Housing, Inc., Montana Municipal Interlocal Authority, Bradley A. Fuller, Nora Bauer, Tammy J. Strandberg, Geneva Perrson, Troy McGee, Noal Petty, Jerry McGee, C. Baker, Donald Skidmore, Jamin Grantham, David L. Nielson, Thomas Jodoin, D. Ole Olson, Robert J. Wood, Tim Burton, Ron Alles, Claudia Bagley, James E. Smith, Allen Peura, Matt Elaesser, Robin Shropshire, Paul Cartwright, Allen Hulse, Bruce McCanless, and Tana J. Rygg.

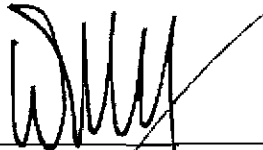
United States Magistrate Judge Keith Strong entered Findings and Recommendation (dkt #51) in this case on September 8, 2010. As relevant here, Judge Strong determined that the Plaintiff has only filed with the Court proof of service on Defendant, Helena Elderhousing, Inc. Plaintiff did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

I can find no clear error with Judge Strong’s Findings and Recommendation.

IT IS HEREBY ORDERED that Judge Strong's Findings and Recommendation (dkt #35) are adopted in full.

IT IS FURTHER ORDERED that the claims against Montana Municipal Interlocal Authority, Bradley A. Fuller, Nora Bauer, Tammy J. Strandberg, Geneva Perrson, Troy McGee, Noal Petty, Jerry McGee, C. Baker, Donald Skidmore, Jamin Grantham, David L. Nielson, Thomas Jodoin, D. Ole Olson, Robert J. Wood, Tim Burton, Ron Alles, Claudia Bagley, James E. Smith, Allen Peura, Matt Elaesser, Robin Shropshire, Paul Cartwright, Allen Hulse, Bruce McCanless, and Tana J. Rygg are DISMISSED WITHOUT PREJUDICE.

Dated this 1st day of October, 2010.



Donald W. Molloy, District Judge
United States District Court

